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3. Exceptions, Bill of (§ 13*)—Should State that It Contains All of the Evidence.—The general rule is that a bill of exceptions must either state or show by clear inference that the evidence which is certified is all of the evidence, because otherwise the Supreme Court of Appeal will not know upon what ground the trial court based its judgment.

[Ed. Note.—For other cases, see 5 Va.-W. Va. Enc. Dig. 386.]

Error to Circuit Court of City of Lynchburg.

Action by N. E. Colbert against M. W. Callaham & Sons, to recover damages for personal injuries. Judgment for the plaintiff, and plaintiff brings error, on the ground that the damages assessed were grossly inadequate. Writ of error dismissed.

Jno. D. Easley and E. Thurman Boyd, both of Lynchburg, for plaintiff in error.

J. R. Caskie, of Lynchburg, for defendant in error.

KELLY v. TREHY.

June 15, 1922.

[112 S. E. 757.]

1. Exceptions, Bill of (§ 39*)—Time to File Runs from Date of Judgment, Not from Expiration of Term.—Under Code 1919, § 6252, providing that bills of exceptions may be filed at any time before final judgment is entered, or within 60 days from the time in which the judgment is entered, the 60 days is computed, not from the adjournment of the term at which the judgment by expiration of law becomes final, but from the date of the judgment, which becomes final by such adjournment.

[Ed. Note.—For other cases, see 5 Va.-W. Va. Enc. Dig. 387.]

2. Time (§ 9 (7*)—Statute Governing Computation of Time for Performance of Act Applies to Statute Fixing Time after Judgment for Filing Bill of Exceptions.—Code 1919, § 5, cl. 8, providing that, where a statute requires an act to be done at a certain time before any motion or proceeding, there must be that time exclusive of the day for such motion or proceeding, but the day on which the act is done may be counted as part of the time, governs the computation of time, under the statute, giving 60 days after final judgment within which to file a bill of exceptions, since the meaning of the latter statute is the same as if it had declared that the final judgment must not have been rendered more than 60 days before the bill was filed.

[Ed. Note.—For other cases, see 13 Va.-W. Va. Enc. Dig. 209.]

3. Statute (§ 285 3/4*)—Re-Enactment of Statute Adopts Construction Previously Placed on It.—The re-enactment of Code 1919, § 5, cl. 8,

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.

as it originally read, by Code of 1919, notwithstanding the amendment of that section in 1916, adopted the construction previously placed upon the section by the courts, that the day on which judgment is rendered is counted as the first of the 60 days within which a bill of exceptions must be filed, and that construction becomes obligatory upon the courts.

[Ed. Note.—For other cases, see 5 Va.-W. Va. Enc. Dig. 387.]

4. Courts (§ 90 (4)*)—Persistently Declared Approval of a Rule Should Not Be Lightly Ignored.—When a court of last resort has persistently declared approval of a rule of law, it should not be lightly ignored, since it is to the interest of the public that there should be stability in the laws by which they regulate their conduct, so that the construction of Code 1919, § 5, cl. 8, relating to computation of time previously adopted in several cases and which was a fair and reasonable one, should not be discarded, even though the court as constituted would not, as an original proposition, have adopted that construction.

[Ed. Note.—For other cases, see 1 Va.-W. Va. Enc. Dig. 645.]

5. Exceptions, Bill of (§ 41 (1)*)—Limitation of Time to File Is Condition of Right.—The statute fixing the time within which bills of exceptions must be filed is a limitation on the right to file them at all, and a restriction upon the powers of the trial court, and a failure to file them in time, is a failure to take advantage of a right conferred and is visited with like penalties.

[Ed. Note.—For other cases, see 5 Va.-W. Va. Enc. Dig. 387.]

Prentis, J., dissenting.

Error to Corporation Court of Norfolk.

Action between one Kelly and one Trehy. Judgment for the latter, and the former brings error. Writ of error dismissed.

J. S. Barron and J. G. Martin, both of Norfolk, for plaintiff in error.

John R. Saunders, Atty. Gen., for defendant in error.

JAMES v. COMMONWEALTH.

June 15, 1922.

[112 S. E. 761.]

1. Criminal Law (§ 1092 (7)*)—Bill of Exceptions Must Affirmatively Show It Was Signed in Time.—In order that a bill of exceptions may be considered, it must affirmatively appear that the bill was signed by the judge of the trial court within the time prescribed by law.

[Ed. Note.—For other cases, see 5 Va.-W. Va. Enc. Dig. 392.]

2. Time (§ 9 (7)*)—After Final Judgment on April 8th, Bill of Ex-

*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.